

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

DENNIS CAPPS,

Petitioner,

V.

CIOLLI,

## Respondent.

Case No. 1:20-cv-00766-AWI-SAB-HC

ORDER DIRECTING CLERK OF COURT  
TO SEND PETITIONER A COPY OF  
RESPONDENT'S MOTION TO DISMISS  
(ECF No. 10)

## ORDER SETTING BRIEFING SCHEDULE

Petitioner is a federal prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

On October 13, 2020, Respondent filed a motion to dismiss the petition. (ECF No. 10).

20 On March 25, 2021, the issued findings and recommendation, noting therein that “[t]o date, no  
21 opposition has been filed, and the time for doing so has passed.” (ECF No.11 at 2).<sup>1</sup> On April  
22 12, 2021, the Court received Petitioner’s objections, in which Petitioner states that he never  
23 received Respondent’s motion to dismiss. (ECF No. 12 at 2).

24 A review of the docket reflects that Respondent did not file a certificate of service along  
25 with the motion to dismiss.

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<sup>1</sup> Page numbers refer to the ECF page numbers stamped at the top of the page.

1           Accordingly, the Court HEREBY ORDERS that:

- 2       1. The Clerk of Court is DIRECTED to send Petitioner a copy of Respondent's motion to  
3           dismiss (ECF No. 10);  
4       2. Within twenty-one (21) days of the date of service of this order, Petitioner SHALL FILE  
5           an opposition or statement that he relies on the arguments set forth in his objections (ECF  
6           No. 12) as an opposition; and  
7       3. Any reply to an opposition to the motion to dismiss shall be filed within seven (7) days  
8           after the opposition or statement of reliance on the objections is served.

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10          IT IS SO ORDERED.

11          Dated: May 7, 2021



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UNITED STATES MAGISTRATE JUDGE